IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

NOTICE OF MOTION NO.733 OF 2007
WITH
APPEAL (LODGING) NO.84 OF 2007
IN
WRIT PETITION NO.2513 OF 2005

National Textile Corporation (NM) Ltd. ...Appellant.
Vs.
Neelaben P. Shah. ...Respondent.

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Shri V. M. Parkar for the Appellant.
Shri P.M. Patel for the Respondent.

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CORAM : R. M. S.KHANDEPARKAR &
DR.D.Y.CHANDRACHUD, JJ.

March 5, 2007.

P.C.

By this Notice of Motion, the appellant seeks the condonation of delay of 121 days in filing the appeal against the order dated 29th September 2006, passed by the Learned Single Judge in Writ Petition No.2513 of 2005. Apart from the fact that merely contending that there is a marginal delay of 121 days in filing the appeal, no cause has been shown for condonation of delay, even on merits, there is absolutely no case for interference

in the impugned order and on that count also, there is no case for condonation of delay in filing the appeal. The Learned Single Judge has clearly observed that there was no occasion for the Industrial Court to go beyond the order passed and of which execution was sought for in terms of Section 50 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The order is strictly in consonance with well established principles of law that the executing Court cannot go beyond the decree.

2. Our attention was sought to be drawn to the judgment of the Apex Court in **S.P. Chengalvaraya Naidu (dead) by L.Rs. v. Jagannath (dead) by L.Rs. and others**, AIR 1994 SC 853. That was a case where in respect of the decree holder having recovered money sought for executing the decree acting totally dishonestly and hence the delay was condoned. The facts of that case are nowhere near the facts of the case in hand.

3. In the absence of sufficient cause being shown for the

condonation of delay in filing the appeal, the Notice of Motion is rejected and for the same reasons, Appeal (Lodging) No.84 of 2007 stands rejected.

(R. M. S.KHANDEPARKAR, J.)

(DR.D. Y. CHANDRACHUD, J.)